



FEMA

RECOVERY

FACT SHEET

9580.214

Debris Removal on Federal-Aid Highways

Overview

This fact sheet explains a change in the eligibility of debris removal on Federal-aid highways under the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Program. Until recently, the Federal Highway Administration (FHWA) had the primary authority to remove debris on Federal-aid highways under its Emergency Relief (ER) Program, including in the event of major disasters and emergencies declared by the President under Sections 401 and 501, respectively, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, (42 U.S.C. 5121 et seq.) ("Stafford Act"). FEMA was able to assist with additional debris removal that was not covered by the ER Program and was otherwise eligible for PA Program funding.

The Moving Ahead for Progress in the 21st Century Act ("MAP-21") was signed into law July 6, 2012, (Public Law 112-141) and amended the statutory authorization for the FHWA ER Program. Section 125(d)(3) of Title 23 of the United States Code, Highways, states in part:

"(3) DEBRIS REMOVAL.—The costs of debris removal shall be an eligible expense under this section only for—

(A) an event not declared a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); or

(B) an event declared a major disaster or emergency by the President under that Act if the debris removal is not eligible for assistance under section 403, 407, or 502 of that Act (42 U.S.C. 5170b, 5173, 5192)."

This change went into effect October 1, 2012. For major disasters and emergencies declared under the Stafford Act on or after this date, the FHWA ER Program will not provide assistance for debris removal on Federal-aid highways in jurisdictions designated for FEMA PA. Debris removal on Federal-aid highways in these areas will be eligible for FEMA PA Program funding, pursuant to established eligibility requirements. (See 44 CFR Part 206)

This change applies to debris removal and does not affect any other categories of PA work. Permanent work on Federal-aid highways is not eligible for PA funding. (See 44 CFR 206.226(a)) Debris removal funded by FEMA must meet the eligibility, procurement and documentation requirements established in the Stafford Act, regulations for FEMA's PA program found in 44 CFR Parts 206 and 13, and guidance.

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Frequently Asked Questions

- 1. The Governor declares the event to be an emergency, but there is no Presidential declaration under the Stafford Act. What is FEMA's authority to fund debris removal under its PA program?**

Without a Stafford Act declaration from the President, debris removal activities are not eligible for PA funding. If the Secretary of Transportation concurs with the Governor's emergency declaration, ER funds may be applied to debris removal from Federal-aid highways in the same manner as before the MAP-21 changes. ER funds will only be available in those counties included in the Governor's emergency declaration and any amendments for the same event.

- 2. The President has declared a major disaster or emergency under the Stafford Act and authorized debris removal assistance in designated areas. Can FEMA fund debris removal from Federal-aid highways?**

Debris removal from Federal-aid highways in the areas designated by a Presidential declaration may be eligible for Public Assistance funding, subject to FEMA applicant and work eligibility requirements, as well as specific debris removal criteria under 44 C.F.R. § 206.222, § 206.223(a) and (c) and § 206.224, respectively.

- 3. What if the Governor's emergency declaration designates areas, such as counties, independent cities, and tribal lands not included in the Presidential declaration?**

Areas not designated in the Presidential declaration are not eligible for Public Assistance funding. Federal-aid highways outside the designated areas are treated as if there was no Stafford Act declaration (see #1 above).

- 4. If the event is declared a major disaster or emergency by the President, but Public Assistance funding for debris removal has not been authorized, or FEMA has determined that the debris removal is ineligible for Public Assistance funding, is debris removal from Federal-aid highways still eligible for assistance?**

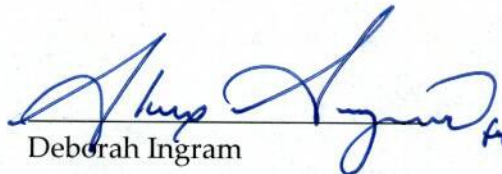
If the President has declared a major disaster or emergency, but debris removal has not been authorized or FEMA determined that debris removal costs submitted by the applicant are ineligible, then ER funds may be available for debris removal activities on Federal-aid highways through the FHWA ER Program. If requested by FHWA, FEMA will provide documentation of FEMA's determination(s) of ineligibility. Any costs submitted to FHWA will be subject to FHWA's ER eligibility requirements.

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5. Which program rules should local jurisdictions follow if debris needs to be removed from a Federal-aid highway after an event, and no declaration has yet been made authorizing either the FHWA Emergency Relief program or the FEMA Public Assistance program?

There is no guarantee that either program will be authorized after an incident. To be eligible for FEMA funding, local jurisdictions need to adhere to the eligibility requirements and administrative procedures of the Public Assistance Program. If a jurisdiction has questions regarding eligibility under the FHWA ER Program, they should contact FHWA personnel in their respective states.



Deborah Ingram
Assistant Administrator
Recovery Directorate

10/28/12

Date